



# City of Marlborough Zoning Board of Appeals

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3768 Facsimile (508) 460-3747

ZBA Case # 1422-2013 Date: October 8, 2013  
Name: Raynold Menard & Angela Tom  
Location: 45 Washington St.

## Zoning Board of Appeals Notice of Decision

The Zoning Board of Appeals, acting under the Zoning Ordinance of the City of Marlborough and the Zoning Enabling Act of the Commonwealth of Massachusetts, after a public hearing held at the Marlborough City Hall, 140 Main St. on September 17, 2013 with a continuation hearing on September 24, 2013.

**Petition:** The applicants desire to construct 2 additions onto an existing single family structure; one at the front and one at the rear of the existing house. The propose changes would result in total Lot Coverage of approximately 52% vs. the maximum 30% for Zoning District Residence B. The property in question is located at 45 Washington St. Being Map 70, Parcel 13.

**Members Present:** Paul Giunta – Acting Chairman, Ralph Loftin, Mitchell Gorka and Jay Whittaker.

**Vote:** After due consideration to the subject matter of the petition, the Board voted 4-0 to (GRANT) a variance for **Lot Coverage**, on the ground that a literal enforcement of the Ordinance would involve substantial hardship to the petitioner and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Ordinance.

Therefore, the Board voted 4-0 with Paul Giunta – Acting Chairman, Ralph Loftin, Mitchell Gorka and Jay Whittaker voting in the affirmative to grant a variance on the following terms and conditions:

1. Approved plan entitled: Certified Plot Plan, 45 Washington St. Marlborough, MA Prepared for Anna Tanyaradzwa Mairosi, Scale: 1" = 10', dated June 24, 2013. Prepared by A.S. Elliott Associates, Professional Land Surveyors, P.O. Box 85, Hopedale, MA 01747.
2. The applicants will obtain recommendations from his engineer and/or contractor and with the approval from the proper city department(s), as to the best approach to mitigate water runoff onto neighboring properties and onto the street, and will implement such recommendations during construction.
3. Precautions will be taken during construction to ensure no water runoff will occur onto neighboring properties and onto the street.
4. The proposed rear deck will be eliminated from the plan and some type of a turn-around for a parking area will be designed to allow forward driving egress.
5. A retaining wall will be built to the Building Inspector's approval along the driveway on the west side of the property. If the existing retaining wall on the side lot line is to be rebuilt, it too will be constructed with the approval of the Building Inspector.

6. Deed Restriction: Considering this proposal is for 7 bedrooms, 4 full bathrooms and 2 kitchens, a Deed Restriction will be added to their deed stating the structure can only be owner occupied. The property will not be used for commercial rental purposes or a boarding house.
7. No Building Permits can be issued until such time as the applicant presents to the Building Inspector evidence that said variance with its restrictions has been filed with the Registry of Deeds or Land Court as applicable.

**End**

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section II (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the city clerk that twenty days have elapsed after the decision has been filed in the office of the city clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.

If the rights authorized by a variance are not exercised within one (1) year of the date of grant of such variance, such rights shall lapse; provided however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six (6) months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period.

Respectfully submitted,

Zoning Board of Appeals  
Paul Giunta – Acting Chairman

Submitted to the City Clerk's office on October 8, 2013.